

REMARKS

The Office Action dated November 11, 2004 rejected claims 1-45 under 35 U.S.C. §102(e) as being anticipated by Cunningham et al. (U.S. Patent No. 6,219,786). The rejection is respectfully traversed because Cunningham cannot support a prima facie case of anticipation.

(1) The Anticipation Rejection of Claims 1-6, 9-14 and 18-36 Is Overcome

Claims 1-6, 9-14, 18-36 were rejected as being anticipated by Cunningham. It is respectfully submitted that the anticipation rejection is overcome because Cunningham fails to teach every limitation of the claims 1-6, 9-14, 18-36.

Claim 1 recites:

A dynamically reconfigurable intrusion-tolerant network interposed between a service requesting client and a protected server to minimize the impact of intrusive events comprising:

a proxy server for receiving network service requests from a client and forwarding said requests pursuant to a tolerance protocol to a protected server, and responding to a client;

an acceptance monitor for receiving from the protected server one or more responses to the client request and applying one or more acceptance tests thereto; and

a ballot monitor for receiving from the acceptance monitor the results of the applied acceptance tests and determining a preferred response to the client request.

Therefore, a system according to claim 1 includes an acceptance monitor for receiving responses from the protected server and applying one or more acceptance tests to the responses. The system further includes a ballot monitor that receives the results of the applying acceptance tests and determines a preferred response to the client request.

On the other hand, Cunningham relates to using access control modules 30, 32, 34 to perform non-intrusive monitoring of data packets transmitted during or after a connection is established between a requesting computer and a protected server. A determination is made on whether the data packets and/or data transmissions comply with predetermined transmission rules.

If a data packet or data transmission does not comply with the rules, the established connection is terminated. See Figs. 1, 2 and 6; col. 3, ln. 22 through col. 4, ln. 44; and col. 6, lns. 1-48.

In rejecting claim 1, the Examiner merely replicated the claim language and identified various paragraphs of Cunningham, without discussing why and how elements in Cunningham correspond to the features of claim 1. It is respectfully submitted that the Examiner's duty to establish a prima facie case has not been satisfied.

It is noted that Cunningham describes a proxy server 28, which forwards access requests to, and receives data from, work stations 18, 20, 22, 24. Although the system described in Cunningham includes access control modules 30, 32, 34 that determine whether transmitted data packets comply with predetermine rules, the access control modules work independently and do not confer with each other. The only time that one access control module accesses information from the other access control module is when access control module 34 validates that other access control modules have indeed been configured correctly and are performing their desired duties (see col. 6, lns. 33-36 of Cunningham). However, access control module 34 only monitors the health of other modules. Cunningham does not specifically describe that access control module 34 receives results of acceptance tests generated by other modules and determines a preferred response to requests from outside computers. Therefore, even if access control modules 30, 32, 34 may arguably be comparable to the acceptance monitor as described in claim 1, which receives one or more responses from the protected server and applies one or more acceptance tests thereto, Cunningham does not teach a ballot monitor that receives the results of the applied acceptance tests from the acceptance monitor, and determines a preferred response to the client request, as recited by claim 1. Since Cunningham fails to teach every feature of claim 1, the anticipation rejection of claim 1 based on Cunningham is untenable and should be withdrawn. Favorable reconsideration of claim 1 is respectfully requested.

Independent claim 18 also was rejected as being anticipated by Cunningham. It is respectfully submitted that the anticipation rejection is overcome because Cunningham does not teach every limitation of claim 18. Claim 18 recites:

A method for reconfiguring communication among network components to minimize the impact of intrusive events, comprising:

- receiving a network service request and forwarding the request pursuant to a tolerance protocol;
- generating a response to the service request and forwarding the response;
- applying one or more acceptance tests to the response and forwarding the test results;
- polling the test results to determine a preferred response based upon the poll; and forwarding the preferred response to the client.

Therefore, a method of claim 18 includes the steps of polling the test results to determine a preferred response based on the poll, and forwarding the preferred response to the client.

As discussed above, the system described in Cunningham only applies certain rules to data packets transmitted on a network. Cunningham does not describe polling the test results to determine a preferred response based upon the poll, and forwarding the preferred response to the client, as recited by claim 18. Since Cunningham fails to disclose every feature of claim 18, Cunningham fails to anticipate claim 18. As such, anticipation rejection is untenable and should be withdrawn. Favorable reconsideration of claim 18 is respectfully requested.

Claims 3-6, 9-14 and 20-36 depend on claims 1 and 18, respectively, and incorporate every limitation thereof. Therefore, the anticipation rejection of claims 3-6, 9-14 and 20-36 also is untenable and should be withdrawn based on at least the same reasons as described above for claims 1 and 18, as well as on their own merits. Favorable reconsideration of claims 3-6, 9-14 and 20-36 is respectfully requested.

(2) The Anticipation Rejection of Claims 2, 7, 8, 15-17 and 19-45 Is Traversed

Claims 2, 7, 8, 15-17 and 19-45 were rejected as being anticipated by Cunningham. The anticipation rejection is respectfully traversed because Cunningham does not disclose every feature of claims 2, 7, 8, 15-17 and 19-45.

Claim 2 describes a system including features comparable to those of the system described in claim 1, and further describes using an intrusion sensor to determine anomalies of the network operation, and an adaptive reconfigurer for altering a tolerance protocol and a network configuration.

As discussed above relative to claim 1, Cunningham fails to teach a ballot monitor that receives the results of the applied acceptance tests from the acceptance monitor, and determines a preferred response to the client request, both of which are recited by claim 2. Furthermore, the sections in Cunningham that were relied on by the Office Action do **not** teach an adaptive configurer for altering the tolerance protocol and a network forwarding scheme, as recited by claim 2. Since Cunningham fails to teach every limitation of claim 2, Cunningham fails to anticipate claim 2. Thus, the anticipation rejection is untenable and should be withdrawn. Favorable reconsideration of claim 2 is respectfully requested.

Claim 19 is a method claim including steps comparable to those of claim 18, and further recites the steps of detecting any anomalies in operation of the network, and revising the tolerance protocol and a network forwarding scheme in response to an anomaly in operation of the network. As discussed relative to claim 2, Cunningham fails to teach polling the test results to determine a preferred response based upon the poll, and forwarding the preferred response to the client, as described in claim 19. Furthermore, Cunningham also fails to disclose revising the tolerance protocol and a network forwarding scheme in response to an anomaly in operation of the network, as required by claim 19. Since Cunningham does not teach every feature of claim

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19, Cunningham does not anticipate claim 18. The anticipation rejection is therefore untenable and should be withdrawn. Favorable reconsideration of claim 19 is respectfully requested.

Claims 7, 8, 15-17 and 57-45 depend on claims 2 and 19, respectively, and include every limitation thereof. Consequently, the rejection of claims 7, 8, 15-17 and 57-45 based on Cunningham also is untenable and should be withdrawn for the same reasons as discussed relative to claims 2 and 19, as well as based on their own merits. Favorable reconsideration of claims 7, 8, 15-17 and 57-45 is respectfully requested.


Conclusion

For the reasons given above, Applicants believe that this application is conditioned for allowance and Applicants request that the Examiner give the application favorable reconsideration and permit it to issue as a patent. However, if the Examiner believes that the application can be put in even better condition for allowance, the examiner is invited to contact Applicants' representatives listed below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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